February 20, 2009

HOUSE BILL No. 1448

DIGEST OF HB 1448 (Updated February 18, 2009 6:51 pm - DI 113)

Citations Affected: IC 6-3; IC 6-8; noncode.

Synopsis: Indiana long term care savings plan. Establishes a long term care savings plan (plan) for a participant to fund an account to pay eligible long term care expenses of the participant. Authorizes the department of financial institutions to enter into agreements with financial institutions to receive participant contributions in the form of account deposits. Limits plan contributions to $165,000 during a participant's lifetime. Indexes the limitation for inflation. Provides a state income tax deduction of $1,000 for an individual and $2,000 for a joint return for contributions to the plan in a taxable year. Provides that qualified withdrawals from the plan to pay eligible long term care expenses are exempt from state income tax, and nonqualified withdrawals are subject to a 10% penalty and state income tax on the amount withdrawn.

Effective: July 1, 2009.

Welch, Turner, Blanton, Frizzell

January 13, 2009, read first time and referred to Committee on Ways and Means.
February 19, 2009, amended, reported — Do Pass.

February 20, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1448

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3-2-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 22. (a) As used in this section, "account" means an account established for a participant in the Indiana long term care savings plan trust under IC 6-8-13-15(e).**

(b) As used in this section, "eligible long term care expense" has the meaning set forth in IC 6-8-13-2.

(c) As used in this section, "nonqualified withdrawal" means a withdrawal or distribution from an account that is not a qualified withdrawal.

(d) As used in this section, "participant" has the meaning set forth in IC 6-8-13-6.

(e) As used in this section, "qualified withdrawal" means a withdrawal or distribution from an account that is made:

(1) to pay for eligible long term care expenses, excluding any withdrawals or distributions used to pay for eligible long term care expenses if the withdrawals or distributions are made

from an account that is terminated less than twelve (12) months after the account is opened;

(2) as a result of the death or disability of the participant; or

(3) to transfer a participant's account to the participant's spouse.

(f) Each taxable year, a participant who makes a contribution to an account may deduct from the individual's adjusted gross income (as defined in IC 6-3-1-3.5(a)) the lesser of:

(1) the amount of the contribution made by the participant during the taxable year; or

(2) one thousand dollars ($1,000).

(g) Notwithstanding subsection (f), a husband and wife filing a joint adjusted income tax return for a particular taxable year may not claim a deduction under this section of more than two thousand dollars ($2,000).

(h) The following are exempt from the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7:

(1) A qualified withdrawal from an account.

(2) Earnings from a participant's contributions that are credited to a participant.

(i) A nonqualified withdrawal from an account is subject to a ten percent (10%) penalty and payment of adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 on the amount of the withdrawal. A payment under this subsection shall be reported by the participant on the participant's annual state income tax return for any taxable year in which a nonqualified withdrawal is made.

(j) A nonresident participant who is not required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made shall make any required payment on the form required under IC 6-3-4-1(2). If the nonresident participant does not make the required payment, the department shall issue a demand notice in accordance with IC 6-8.1-8-2.

SECTION 2. IC 6-8-13 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 13. Indiana Long Term Care Savings Plan

Sec. 1. As used in this chapter, "eligible long term care expense" means:

(1) an expense paid by a participant for long term care provided to the participant; or

(2) a premium paid by a participant who is at least fifty (50) years of age for a qualified long term care policy for the

participant.

Sec. 2. As used in this chapter, "financial institution" has the meaning set forth in IC 5-13-4-10.

Sec. 3. As used in this chapter, "Internal Revenue Code" has the meaning set forth in IC 6-3-1-11.

Sec. 4. As used in this chapter,"long term care" has the meaning set forth in IC 12-15-39.6-1.

Sec. 5. As used in this chapter, "participant" means an individual who is participating in the plan.

Sec. 6. As used in this chapter, "plan" refers to the Indiana long term care savings plan established by section 9(a) of this chapter.

Sec. 7. As used in this chapter, "qualified long term care policy" has the meaning set forth IC 12-15-39.6-5.

Sec. 8. As used in this chapter, "taxable year" has the meaning set forth in IC 6-3-1-16.

Sec. 9. (a) The Indiana long term care savings plan is created for the purpose of funding by a participant on a tax-favored basis an account to pay eligible long term care expenses of the participant.

(b) The department of financial institutions shall enter into agreements with one (1) or more financial institutions to receive contributions in the form of account deposits.

Sec. 10. (a) After December 31, 2009, an individual may participate in the plan by making contributions to an account at a financial institution with which the department of financial institutions has an agreement under section 9(b) of this chapter.

(b) A participant may make contributions under the plan to an account with a financial institution with which the department of financial institutions has an agreement under section 9(b) of this chapter. However, a participant may not contribute more than one hundred sixty-five thousand dollars ($165,000) to the plan during the participant's lifetime. The dollar amount of the maximum lifetime contribution must be adjusted annually for inflation in accordance with Section 151 of the Internal Revenue Code.

(c) A participation agreement must provide the following:

(1) That the agreement may be:

(A) canceled by a participant; or

(B) transferred to a participant's spouse:

upon the terms and conditions set by the department of financial institutions.

(2) That a participant is the owner of contributions made to the plan, plus credited earnings on the contributions, unless the participant transfers the agreement.

(3) That if:

(A) a participant cancels the agreement; or

(B) the plan established by section 9(a) of this chapter is terminated;

a participant is entitled to receive the amount of the participant's contributions to the plan plus credited earnings on the participant's contributions. A participant may not receive more than the fair market value of the participant's account on the date the participant's account is liquidated.

Sec. 11. IC 6-3-2-22 governs state income tax treatment of contributions to, investment earnings or interest on, withdrawals from, and distributions from the plan established under this chapter.

Sec. 12. The department of financial institutions may adopt rules under IC 4-22-2 that it considers appropriate or necessary to implement this chapter.

Sec. 13. This chapter may not be construed as an obligation of the state to assume any responsibility for the Indiana long term care savings plan.

SECTION 3. [EFFECTIVE JULY 1, 2009] **IC 6-3-2-22, as added by this act, applies to taxable years beginning after December 31, 2009.**

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1448, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 40.

Page 5, delete lines 6 through 42, begin a new paragraph and insert:

"SECTION 1. IC 6-8-13 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 13. Indiana Long Term Care Savings Plan

Sec. 1. As used in this chapter, "eligible long term care expense" means:

(1) an expense paid by a participant for long term care provided to the participant; or

(2) a premium paid by a participant who is at least fifty (50) years of age for a qualified long term care policy for the participant.

Sec. 2. As used in this chapter, "financial institution" has the meaning set forth in IC 5-13-4-10.

Sec. 3. As used in this chapter, "Internal Revenue Code" has the meaning set forth in IC 6-3-1-11.

Sec. 4. As used in this chapter,"long term care" has the meaning set forth in IC 12-15-39.6-1.

Sec. 5. As used in this chapter, "participant" means an individual who is participating in the plan.

Sec. 6. As used in this chapter, "plan" refers to the Indiana long term care savings plan established by section 9(a) of this chapter.

Sec. 7. As used in this chapter, "qualified long term care policy" has the meaning set forth IC 12-15-39.6-5.

Sec. 8. As used in this chapter, "taxable year" has the meaning set forth in IC 6-3-1-16.

Sec. 9. (a) The Indiana long term care savings plan is created for the purpose of funding by a participant on a tax-favored basis an account to pay eligible long term care expenses of the participant.

(b) The department of financial institutions shall enter into agreements with one (1) or more financial institutions to receive contributions in the form of account deposits.

Sec. 10. (a) After December 31, 2009, an individual may participate in the plan by making contributions to an account at a

financial institution with which the department of financial institutions has an agreement under section 9(b) of this chapter.

(b) A participant may make contributions under the plan to an account with a financial institution with which the department of financial institutions has an agreement under section 9(b) of this chapter. However, a participant may not contribute more than one hundred sixty-five thousand dollars ($165,000) to the plan during the participant's lifetime. The dollar amount of the maximum lifetime contribution must be adjusted annually for inflation in accordance with Section 151 of the Internal Revenue Code.

(c) A participation agreement must provide the following:

(1) That the agreement may be:

(A) canceled by a participant; or

(B) transferred to a participant's spouse:

upon the terms and conditions set by the department of financial institutions.

(2) That a participant is the owner of contributions made to the plan, plus credited earnings on the contributions, unless the participant transfers the agreement.

(3) That if:

(A) a participant cancels the agreement; or

(B) the plan established by section 9(a) of this chapter is terminated;

a participant is entitled to receive the amount of the participant's contributions to the plan plus credited earnings on the participant's contributions. A participant may not receive more than the fair market value of the participant's account on the date the participant's account is liquidated.

Sec. 11. IC 6-3-2-22 governs state income tax treatment of contributions to, investment earnings or interest on, withdrawals from, and distributions from the plan established under this chapter.

Sec. 12. The department of financial institutions may adopt rules under IC 4-22-2 that it considers appropriate or necessary to implement this chapter.

Sec. 13. This chapter may not be construed as an obligation of the state to assume any responsibility for the Indiana long term care savings plan.".

Delete pages 6 through 7.

Page 8, delete lines 1 through 10.
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1448 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 18, nays 0.